

**CITY OF NEWARK
DELAWARE
PLANNING COMMISSION
MEETING**

December 2, 2008

7:30 p.m.

Present at the 7:30 p.m. meeting were:

Commissioners: Ralph Begleiter (Vice Chairman)
 Angela Dressel
 Mary Lou McDowell
 Rob Osborne
 Joseph Russell

Absent: James Bowman (Chairman)
 Kass Sheedy

Staff Present: Roy H. Lopata, Planning and Development Department Director

In Chairman Bowman's absence Vice Chairman Ralph Begleiter opened the December 2, 2008 Planning Commission meeting.

Mr. Begleiter: Planning and Development Director Roy Lopata welcome back to the Planning Commission.

Mr. Lopata: Thank you Mr. Vice Chair and Chair for the night. First of all, I do want to say that I am glad to see everybody and look forward to continuing to work with the Commission. Secondly, our new Community Affairs Officer is here. Dana has been working with the City since May in the City Manager's Office. Her job, among other things, is to get the word out about Newark. If you have questions about things you see in the press or ideas or suggestions, Dana is the person to call.

1. THE MINUTES OF THE NOVEMBER 5, 2008 PLANNING COMMISSION MEETING.

Ms. Mary Lou McDowell notes the following corrections: Page 14, first paragraph, "and observed pretty rowdy parties New Street." I think there should be "on" after parties.

The next paragraph, "The one question I have, and was trying to say how many or are there any owner occupied homes in the area." I think "say" should be "see." It still sounds weird, but I said it. I probably said it weird.

Also, the fourth paragraph on that same page, the name is Ms. "Brackbill", not Brackville.

On Page 15, the third paragraph up, I also happen to know the young man who spoke, and his last name is Bucy, and not what is there.

Mr. Begleiter notes the following corrections: on Page 9, first paragraph, first line, the word should be "borrowing" rather than barrowing. And in the third paragraph, the same word appears again two lines up from the end of the paragraph. It should be "borrowing" not barrowing.

MOTION BY DRESSSEL, SECONDED BY McDOWELL, TO APPROVE THE MINUTES AS AMENDED.

VOTE: 5-0
AYE: BEGLEITER, BROWN, DRESSEL, McDOWELL, OSBORNE
NAY: NONE
ABSENT: BOWMAN, SHEEDY

MOTION PASSED

2. REVIEW AND CONSIDERATION OF AN AMENDMENT TO ZONING CODE ARTICLE XVII, SIGNS, REGULATING REAL ESTATE “FOR RENT,” SIGNS.

Mr. Lopata summarized the Planning and Development Department’s report for the Planning Commission which reads as follows:

“As a follow-up to a request from Mayor Vance Funk, the Planning and Development Department reviewed the City’s current regulations regarding the size of residential “for rent” signs and has provided a report for the Planning Commission’s review and recommendation below.

The Planning and Development Department’s report follows:

Current Regulations

Zoning Code Section 32-58(a)(20) defines a “*Real estate sign*, ” as a sign,

“Used for the purpose of indicating sale, rental or lease of the premises on which the sign is located.”

Please note that a rental real estate sign is not distinguished from a “for sale” or similar sign.

Such signs in residential zones are permitted under the following conditions:

<i>Purpose</i>	<i>Location</i>	<i>Standards</i>
Real Estate	Ground, wall	Maximum number of one (1) per lot. Maximum area of 6 sq. ft. Maximum height of 5 ft. Minimum setback of 15 ft. for ground sign. Illuminated sign not permitted. A permit is not required for real estate signs.
	Fence, marquee, projecting, not permitted.	

In addition, Zoning Code Sections 32-9(a)(2)(3); 32-10(a)(6)(6.1); 32-11(a)(12); and 32-13(a)(17) stipulate that in RH, RT and RS (one family detached); RD (one family semi-detached) and RM (garden apartments) districts for single family and single family semi-detached rental dwellings the, “display and advertising on the premises with the connection with such use [meaning rental use] is not permitted.”

Other Jurisdictions

As part of the Planning and Development Department’s review of this issue, we examined ordinances in several other jurisdictions to ascertain how they handled the matter of the size of rental real estate signs. While we did not locate communities that

distinguished between rental and other types of real estate signs, we did find the following size limitations:

<u>Jurisdiction</u>	<u>Maximum Size</u>
Bethany Beach, Delaware	1.5 sq. ft.
New Castle, Delaware	6.0 sq. ft.
Dover, Delaware	6.25 sq. ft.
Borough of West Chester, Pennsylvania [Home of West Chester University]	6.0 sq. ft.
Chapel Hill, North Carolina [Home of the University of North Carolina]	4.0 sq. ft.
City of Ames, Iowa [Home of Iowa State University]	6.0 sq. ft.
Fort Collins, Colorado [Home of Colorado State University]	6.0 sq. ft.

As part of our review, we visited the True Value Hardware store in the Park ‘N’ Shop Shopping Center to derive a sense of the size of available for purchase “for rent” signs. We found the following six sizes available at the True Value Hardware:

- 9” X 12” = .75 sq. ft.
- 10” X 14” = .97 sq. ft.
- 12” X 15” = 1.25 sq. ft.
- 15” X 18” = 1.98 sq. ft.
- 18” X 24” = 3.00 sq. ft.
- 20” X 24” = 3.30 sq. ft.

Suggested Regulation

If the Planning Commission is inclined to recommend in favor of the type of regulation suggested by Mayor Funk, we would suggest that the Zoning Code could be amended as follows:

Amendment 1

Amend Zoning Code Section 32-58(a)(20), which reads as follows:

“*Real Estate Sign*: Used for the purpose of indicating sale, rental or lease of the premises on which such sign is located.”

By revising this section to read as follows:

“*Real Estate Sign*: Used for the purpose of indicating sale, rental, or lease of the premises on which such sign is located, except shall not include signs for rental or lease of properties in residential zoning districts.”

Amendment 2

Amend Zoning Code Section 32-58(a) by adding a new section as follows:

“(20.1) *Residential Rental Sign*: In residential districts, used for the purpose of indicating the rental or lease of the premises on which such sign is located.”

Amendment 3

Amend Zoning Code Section 32-60(a)(1) Standards for Residential Zoning Districts, by adding a new sign schedule as follows:

<i>Purpose</i>	<i>Location</i>	<i>Standards</i>
Residential Rental Sign	Ground, wall	Maximum number of one (1) per lot. Maximum area of 4 sq. ft. Maximum height of 5 ft. Minimum setback of 15 ft. for ground sign. Illuminated sign not permitted. Permit not required.
	Fence, marquee, projecting, all others not permitted.	

Because rental real estate “for rent” signs are not permitted at single family and single family semi-detached properties, this proposed new regulation would limit the size of “for rent” and similar outdoor signage in residential districts for multi-unit apartments.

Recommendation

The Planning and Development Department suggests that the Planning Commission review this Planning and Development Department report, consider public input, and make a recommendation to City Council.”

Mr. Lopata: Please note also that a real estate sign in a Commercial District can be 50 sq. ft. and in an Industrial District, a 100 sq. ft. Another little important wrinkle – and it is noted here in passing in the report – currently you cannot have a “for rent” sign at a single family house. Those signs are not permitted at all. That is not what we are talking about tonight. This proposal is regarding signage on apartments, essentially, and the Mayor has asked that we consider some kind of size restriction beyond what we have currently.

Mr. Rob Osborne: Excuse me. Roy, will you repeat what you said right before that?

Mr. Lopata: For a single family or single family semi-detached unit that is rented now, a "for rent" sign of any size is not permitted on that property.

Mr. Begleiter: Does this only impact apartment buildings?

Mr. Lopata: Anything that is classified as a multi-family dwelling in the Building Code. The Building Code classifies an apartment as more than a two-family dwelling. Even the three-unit house at 203 New London Road that you reviewed several times over the last year – Gibby Young’s project – a “ for rent” sign would be regulated here because that is a three-unit apartment as you recall. That little building at the foot of New London and Corbit Street.

Ms. Peggy Brown: The ice house?

Mr. Lopata: Right. That is an apartment building under our Zoning Code. So, all we are talking about here is a very simple thing, and what we are proposing is reducing the sign size in this case to 4 sq. ft.

Mr. Begleiter: Do any Commission members have any discussion?

Mr. Osborne: For example, Roy, you indicated that a “for rent” sign on a house (something that is not an apartment complex) is currently prohibited.

Mr. Lopata: It is only single family and single family detached.

Mr. Osborne: So for a single family house in Fairfield, or a single family house in Abbotsford, or a single family house in Devon it is prohibited?

Mr. Lopata: That is prohibited and cannot have a “for rent” sign. Am I going to say that that has been enforced rigorously? No. Then, again, I haven’t heard many complaints about it either.

Mr. Osborne: Is there a fine?

Mr. Lopata: Yes. There is a fine.

Mr. Osborne: On page 2 of the report I see the different benchmarks that were chosen. Most of the other towns’ signs look like they are 6 square feet, and Bethany, obviously, looks like it is 1 ½ sq. ft. What is the rationale for the 4 ft.? Is it more that it seems like a reasonable compromise?

Mr. Lopata: 4 ft. is smaller than 6 ft. I could have proposed 3.3 ft. As you can see that is the largest sign available at True Value. I am sure there are other commercially available signs, but where would people typically get a sign like that unless they made their own? They would run to a local hardware store, I think, and buy one.

Ms. Angela Dressel: Driving around Newark, I have not noticed a problem with signs. I am wondering why this even came up, and part of the reason that Bethany has such a small sign size, I believe, is because 99% of the properties are for rent. So, that minimizes the impact on everybody seeing things. I have truly not seen a problem, and 6 sq. ft. doesn’t sound that large to me.

Mr. Lopata: There was one sign that caused the consternation. There was a large sign somewhere last year.

Ms. Peggy Brown: I was one of the people who complained about it because it was in my district. Other people on my street and in my district also complained.

Ms. Dressel: Was it on an apartment building?

Ms. Brown: Yes, it was, and it was quite large. It looked like a commercial sign.

Ms. Dressel: Was it larger than the 6 sq. ft?

Ms. Brown: Yes.

Mr. Lopata: I think we made them take it down.

Ms. Dressel: That is a situation where the regulation just needed to be enforced, but you are saying that a 3 X 3 ft. sign is essentially the size of 4 sq. ft?

Mr. Lopata: 2 X 2 ft. is 4 ft.

Mr. Begleiter: You said in your report that you did not locate communities that distinguished between rental and other types of real estate signs.

Mr. Lopata: And I looked at more than these.

Mr. Begleiter: Is Newark unique in that respect? Does the City of Newark currently distinguish between rental and other types of real estate signs?

Mr. Lopata: No.

Mr. Begleiter: So, this proposal actually does more than what it says it is going to do. It creates a new category of regulation for a new category of sign that is currently not distinguished from other categories of signs.

Mr. Lopata: Right. So, I could narrowly focus on what I thought was the complaint.

Mr. Begleiter: Earlier this year, perhaps last year, there were signs in Washington House facing Main Street that said “for sale.” They were very large. They were in the windows. I didn’t measure them to see what square footage they would be. But, since those said for sale, and under current law they are indistinguishable from the rental signs, if they had exceeded the 6 sq. ft. limitation would this regulation have applied to them?

Mr. Lopata: No, because they are not in a residential zone. That is another wrinkle.

Mr. Begleiter: Even though it is an apartment building?

Mr. Lopata: It is zoned commercial.

Mr. Begleiter: So, this regulation would apply unevenly to apartments in places that are not in residential zones, even though the area by definition – the fact that people live there – make them residential, they would be treated differently from apartments in places that the City has chosen to name residential zones as distinct from having residential apartments in a nonresidential zone.

Mr. Lopata: Using the term “differently” is better than “unevenly.”

Mr. Begleiter: Discriminated against.

Mr. Lopata: I wouldn’t say that either because real estate in a commercial area is traditionally treated differently than the residential area.

Mr. Begleiter: It isn’t in Newark.

Mr. Lopata: Remember, I said the signs in a commercial area can be 50 sq. ft.

Mr. Begleiter: Regardless of whether they are residential or not?

Mr. Lopata: Right. So, we make lots of distinctions in that regard. This would be one of the minor ones.

Mr. Begleiter: All of the many projects that this Commission reviews, which turn out to be student rental apartment buildings, but which the City designates as intended for single family use, they have to be designed to encourage single owner occupancy. All of those buildings, would they be subject to this sign regulation as distinct from the current sign regulation?

Mr. Lopata: This would only apply to units in residential zones that qualify as apartments.

Mr. Begleiter: So, all the student rentals would qualify as apartments.

Mr. Lopata: That presumes that all apartments are student rentals.

Mr. Begleiter: No, the other way around. All student rentals are apartments.

Mr. Lopata: Not necessarily. No, that is not true at all because many apartments are downtown. We have approved dozens of them over the recent past.

Mr. Begleiter: The total distinction would be as to what zone they are in, not as to what the function of the building is.

Mr. Lopata: It is a combination. It must be an apartment in a residential zone. Quite frankly, I think we are making a bigger deal out of this. This is simply taking a current regulation, which is 6 ft., and making it 4 ft. That is all we are doing here.

Mr. Begleiter: It is not just a current regulation, though, right? We are creating a new category of sign. It is not a current regulation; we are creating a new regulation.

Mr. Lopata: The reason is, otherwise you would be regulating “for sale” signs in residential districts to 4 sq. ft. I don’t think anybody is proposing that because “for sale” signs are, I guess, not objectionable.

Mr. Begleiter: You helped me make the point I wanted to make in this discussion which is, I don’t really see the point of nickel and diming the signage in the City of Newark to this level of detail. If the City, Council or other agencies of the City, want to review signage in the City of Newark, by all means do that and come up with some sensible changes or maybe make no changes if the review suggests no changes are necessary, or pick apart one business and make a distinction or discriminate against one kind of sign because it serves exactly the same function but it is in a different zone. And, then another business that is right next door that doesn’t happen to be the same business – it is not in the business of renting apartments – it is in the business of renting tools, they can have a different kind of sign in exactly the same place in a residential neighborhood or a bigger sign. For me, that does not make any sense. If we want to take into account as a city what our city looks like what our signage looks like and what the proportions are in different zones, then let’s do it on a comprehensive basis. The next thing you know somebody else is going to say, oh yea, but I want to regulate tool rental signs and I don’t want to regulate snow mobile rental signs, I only want to regulate tool rental signs.

Mr. Lopata: It seems to me that the most important distinction – and maybe Peggy touched on it – that the enforcement probably would have solved this problem that lead to this way back when, because the sign was much bigger than 6 ft. It was on New London Road, wasn’t it? Regardless, we need to be sure we enforce the sign regulations, and this is the proposal we have come up with at the request of the Mayor.

In any case, this proposal, as Ralph notes, focuses on one narrow area – “for rent” signs in residential districts. To do that you have to break it out as a special category, which isn’t done very often.

Mr. Begleiter: If anyone in the public wants to speak to this issue, please go to the microphone and identify yourself.

Mr. Bruce Harvey: 5 Phillips Avenue. I am also president of the Newark Landlord Association. As Mr. Lopata has specified that this proposal is strictly limited to multi-housing apartments, I haven’t heard from any apartment people one way or the other. I believe Mayor Funk mentioned two places that he had complaints brought to him. One was the New London Road sign. As I understand it, someone made a call and it was taken down. I think there was another on Wilber Street. I don’t know what the situation was there. I am also glad that that little wrinkle so described is going to be enforced the same way as it always has been, hopefully.

I would just make a comment on real estate signs in general. I happened to drive down Park Place today and saw a real estate sign in front of a house with the name of a realtor and on top it had a little placard that said call so-in-so at such-and-such about three times the size of the little nameplate. Underneath it had another little plate hung on it that said, “for sale or lease.” That, somehow or another, made it both a real estate sign and a “for rent” sign. I would hope that any adjustment to signs wouldn’t hurt the people who are trying to sell their houses in a down market at this time. Personally, as far as for rent signs go, I hate the ugly ones, I don’t put them up. I think a lot of for rent signs in a neighborhood are tacky, but that is my personal feeling. The sense I am getting from a couple of the members here, is that if it ain’t broke don’t fix it. The current law allows for oversized signs to be declared illegal and enforced.

Mr. Lopata: May I ask a question? Bruce, just as an aside, but of interest to me, in your experience, do you find that signage is more effective, less effective or doesn’t make any difference in terms of renting, or is it better to advertise?

Mr. Harvey: It varies from one time of the year to the next. Each person who rents a house may have come across it through several different means. Eventually, sooner or later, every rental or every sale is a drive by. Sooner or later they see the property. I would say, in some of the more expensive neighborhoods, there are a lot more people who drive around looking for “for rent” signs than in some of the other areas. When I say more expensive, more desirable.

Mr. Begleiter: Are there any other questions from the Commission? From the public?

Ms. Dressel: I think that we should either move to table this if the City and Council wanted us to look at all signage in the City or just to reject this.

MOTION BY DRESSEL, SECONDED BY BEGLEITER THAT THE PLANNING COMMISSION RECOMMENDS THAT CITY COUNCIL NOT APPROVE THE AMENDMENTS IN THE PLANNING DEPARTMENT REPORT CONCERNING DEFINING AND REGULATING “FOR RENT” SIGNS IN RESIDENTIAL DISTRICTS.

Mr. Begleiter: I am going to explain my vote. I think we should reject this. I think this is a solution without a problem, and the solution to this is enforcement of the existing law and if the Council or other agencies of the government feel that there is a problem here that we are not seeing for some reason, I suggest they come forward with a more comprehensive description of the problem and one that we can handle on a citywide basis rather than on a very minuscule basis as this solution suggests.

VOTE:4-1

AYE: BEGLEITER, DRESSEL, McDOWELL, OSBORNE

NAY: BROWN

ABSENT: BOWMAN, SHEEDY

MOTION PASSED

Mr. Begleiter: Is there any further business to come before the Commission?

Mr. Lopata: I just want to wish everyone a Happy Holiday. We do have a meeting on January 6, 2009. There are some items that will be on the agenda. I also wanted to tell you that at the Council meeting on Monday evening, December 8th, there will be a reception to meet the new City Manager Kyle Sonnenberg who just started November 3rd. The reception is at 5:30 p.m. in the atrium. The public is invited.

There being no further business, the meeting adjourned.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission